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SIPDIS

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SUBJECT: INPUT FOR 2007 TIP REPORT - TAIWAN

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¶1. (SBU) This is AIT/T's 2006-07 Trafficking in Persons (TIP) report. The report is presented according to reftel sections, beginning with paragraph 27 A.

27 A. Overview of Taiwan's Activities to Eliminate Trafficking in Persons

Taiwan is a source country for a limited number of women trafficked to Japan. Taiwanese citizens do not need visas to visit Japan and can legally travel to Japan via commercial flights. According to the International Police division of Taiwan's Criminal Investigation Bureau, Taiwanese women are lured to Japan by newspaper advertisements in Taiwan placed by local employment agencies with ties to organized crime rings in Japan. The ads promise employment and free transportation to Japan. Once the Taiwanese women arrive in Japan, they are forced into prostitution or other forms of labor and threatened with bodily harm to prevent them from going to authorities. One officer in Taiwan's Representative Office in Tokyo is charged with cooperating with Japanese authorities to identify Taiwanese trafficking victims and return them to Taiwan. The Taiwan National Immigration Agency (NIA) reported that 59 female trafficking victims were returned to Taiwan in 2006. This is an increase over the total 68 women returned to Taiwan during 2004 and 2005. NIA was unable to provide an official estimate of the total number of Taiwanese women trafficked to Japan in recent years.

There is reason to believe that Taiwan is also a source country for a limited number of women trafficked to the United States. Over the past ten months, AIT's consular section fraud prevention unit identified at least 100 Taiwanese women who appear to have traveled to the U.S. in 2006 to work as prostitutes. All were female except one, and most were between 23 and 40 years of age. Ongoing investigations by Diplomatic Security and U.S. local law enforcement suggest that most of the participants knew they would be working as prostitutes and were willing to be transported to the U.S. for that purpose. However, ongoing

investigations suggest some participants may have been subjected to exploitative working conditions to which they did not consent, including forced confinement or relocation, confiscation of travel documents, and withholding of pay.

Taiwan is not a transit point for a significant number of internationally trafficked persons. Taiwan is a transit point for a small number of illegal Mainland Chinese seeking to enter the United States. Taiwan criminal gangs use fraudulent Taiwan travel documents and Taiwan-operated vessels to smuggle these illegal immigrants. Although these illegal aliens are voluntary migrants, some of them may become trafficking victims as a result of debt bondage, forced prostitution, or other schemes upon reaching Taiwan or the United States.

Taiwan is primarily a destination country for Southeast Asian and PRC men and women trafficked into forced labor or sexual exploitation. Traffickers also use fraudulent marriages between Taiwanese men and PRC or Southeast Asian women (primarily Vietnam), to traffick women into Taiwan for labor and sex exploitation.

Taiwan's geographic proximity to the PRC and Southeast Asia, large demand for foreign workers, and lucrative sex industry provide opportunities for traffickers to exploit victims. Many female trafficking victims are forced into prostitution.

Both men and women are subjected to forced labor or involuntary servitude. In many cases, a victim's passport is seized, and he or she may be subjected to physical abuse or other forms of coercion to prevent them from attempting escape or seeking assistance from the authorities.

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According to the National Immigration Agency (NIA), 1,596 PRC citizens (925 men and 671 women) and 1,701 Southeast Asian citizens were deported from Taiwan in 2006. More than 340,000 foreign workers and 370,000 foreign spouses live in Taiwan. These large numbers make it difficult to obtain reliable estimates of the number of persons being trafficked within Taiwan.

According to women's rights groups involved in rehabilitating girls and women rescued from Taiwan's sex industry, the number of trafficking victims under 18 years of age is low. According to NIA, as of February 2007, the 14 PRC women held at the Ilan Detention Center are all adults. There is a clear consensus among government officials and NGOs that trafficking of minors for prostitution has declined dramatically since the passage of the 1995 Child and Youth Sexual Transaction Prevention Act (CYSTPA). However, there were continuing reports of a small number of teenage girls being forced into prostitution after responding to misleading employment advertisements.

The Ministry of Interior (MOI), Ministry of Justice (MOJ), National Immigration Agency (NIA) (formerly the Immigration Bureau of the National Police Agency), National Police Administration (NPA), Council for Labor Affairs (CLA), academics, human rights groups, women's rights groups and advocacy groups for foreign labor and foreign spouses are the primary sources for information about trafficking in persons.

These sources are all generally reliable and often cooperate with each other to combat trafficking. These sources agree that it is extremely difficult to estimate the number of trafficked persons in Taiwan.

27 B. General Overview and Changes

The Taiwan Coast Guard (CGA) intercepted fewer PRC immigrants being smuggled to Taiwan by boat in 2006. During the first ten months of the year, 294 men and 31 women were intercepted while trying to enter Taiwan illegally by boat. In 2005, 369 men and 72 women were caught before landing on Taiwan.

CGA officials reported that illegal Chinese male immigrants are seeking construction jobs in Taiwan (women cannot legally perform certain kinds of construction work in Taiwan). According to CGA, most male PRC illegal immigrants seeking these jobs come to Taiwan under the guise of working aboard Taiwan fishing boats. Once the boats dock in Taiwan, the PRC men disappear. In September 2006 the Ministry of Justice (MOJ) reported that the whereabouts of more than half of the 2,000 Chinese fishermen hired by Suao Harbor fishing companies were unknown. Law enforcement officials suspected the missing fishermen had found illegal work inside Taiwan.

The number of female illegal PRC immigrants smuggled by boat has dropped, CGA officials say, because smugglers connected to Taiwan's sex industry are using other channels, including fraudulent marriages, to circumvent increased coastal patrols. PRC citizens can only legally enter Taiwan to conduct tourism or business, or to be the spouse of a Taiwanese citizen.

Ninety percent of illegal PRC immigrants, male and female, come from Fujian province, situated only 90 miles across the Taiwan Strait. According to the NIA, of those illegal PRC immigrants apprehended on Taiwan soil in 2006, 75 percent were found in northern Taiwan. Seventy-three percent of PRC illegal immigrants arrested in Taiwan were found after living in Taiwan six months or less. Almost half of those detained admitted to performing some kind of temporary labor while in Taiwan.

Human smuggling groups in Sichuan and Fujian provinces actively recruit men, women, and girls willing to work in

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Taiwan. Others, seeking economic opportunities, may initiate contact with the smugglers in hopes of finding better work in Taiwan. Chinese fishing boats are used to transport passengers to certain locations in the Taiwan Strait, where they are transferred to Taiwanese fishing boats. Smugglers often force their passengers to discard luggage before boarding, in order to be able to fit more people into the boats. After landing in Taiwan, most of the men and some of the women will seek illegal work in the Taiwan economy. Other women will be delivered to secret locations, where auctions arranged by sex traffickers will take place. Brothel operators and others from Taiwan's commercial sex industry attend the auctions, where they "buy" women for their illegal operations. After a woman has been sold, she is transported to a designated workplace, or to an apartment near the area where she will work.

According to the National Police Agency, many PRC women know they are coming to Taiwan to work as prostitutes, but many do not. In many cases, both those women who volunteer to work as prostitutes and those who do not are subjected to exploitative working conditions, physical or mental abuse, confinement, and other forms of coercion. NGOs told AIT that women who are smuggled to Taiwan must pay between US \$3,500-6,500 in fees to smugglers, and that local sex or labor traffickers can sell each woman for between US \$5,000-6,000.

Taiwan continued to improve the protections and services afforded to trafficked PRC women. NGOs report that the law requires police and other law enforcement officials to consider all girls under 18 years of age to be trafficking victims, not criminals. Once trafficking victims are taken into custody, police and other government officials are required to protect them from further harm. During the initial intake process at the one remaining Detention Facility in Ilan, immigration authorities apply a standardized TIP victim screening system, which considers information from the initial police interview, the circumstances of the migrant's arrival in Taiwan, and other evidence obtained by investigators. After the initial intake is completed, a second interview is conducted with the

assistance of social workers to ensure that victims are properly identified and afforded appropriate protections. Trafficking victims have regular access to NGOs and social workers, and recreational activities are provided and encouraged. Both NGOs and religious social workers visit victims at the Ilan facility at least twice a week, and can visit more frequently if needed. Taiwan authorities encourage trafficked women to cooperate with officials to prosecute traffickers.

NGOs told AIT that immigration officials are increasingly distinguishing PRC trafficking victims from PRC criminals, and affording victims better protection and treatment. According to the Taiwan Women's' Rescue Foundation, when PRC citizens are repatriated to China, the Taiwan immigration officials notify PRC authorities which individuals were victims of trafficking. NGOs told AIT that, although there is still considerable room for improvement, the Taiwan government is increasingly willing to incorporate NGO suggestions into its anti-trafficking policy and training programs, and law enforcement officials are consulting NGO representatives on difficult cases more frequently.

NGOs were invited by the Taiwan government to participate in drafting the "Prevention of Trafficking in Persons Action Plan" (the "Plan") issued on November 8, 2006. NGO representatives, academics, and foreign and local experts participated in eight separate meetings with senior-level Taiwan government officials from twelve different ministries and agencies, including MOI, MOJ, NIA, CLA, and NPA. While NGOs criticized the Action Plan for offering too few specific changes, NGO representatives continue to participate in

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bi-monthly Task Force meetings convened by the MOI to supervise and evaluate ongoing anti-trafficking efforts.

The Taiwan government acknowledges that fraudulent marriages are commonly used by traffickers to introduce foreign women into Taiwan for labor or sexual exploitation. Many women from China, Vietnam, and other Southeast Asian countries are willing to marry Taiwan men in order to enjoy Taiwan's higher standard of living, and to earn money to assist relatives back home. Traffickers disguised as marriage brokers exploit such motivations and lure many women to Taiwan in order to force them into prostitution or exploitative labor upon their arrival. Other women may knowingly enter into a false marriage in hopes of finding gainful employment in Taiwan. These women do not intend to become prostitutes, but upon arrival are often coerced by traffickers into the sex trade or forced labor. In some cases, women, particularly from the PRC, knowingly enter into false marriages in order to work in Taiwan's sex industry. These women are often subjected to exploitative working conditions to which they did not consent, including forced confinement or relocation, physical or mental abuse, and unfair withholding of pay.

Traffickers of PRC women prefer using fraudulent marriages over smuggling by boat because it is safer and carries a lower risk of detection. Trafficking syndicates in Vietnam, Indonesia, Thailand and other Southeast Asian countries use fake marriages to circumvent restrictions on certain classes of laborers, or to introduce women into Taiwan's sex industry.

Some Taiwan men are willing to serve as bogus husbands because of the financial rewards, despite the risks associated with getting caught. In facilitating a "bride's" residence in Taiwan, a typical "husband" can receive a free round trip to the bride's home country and as much as US \$1,000 per month for up to one year. Under current fraud and forgery laws, a man convicted of fraudulent marriage can face up to three years in prison. He may also be convicted of aiding and abetting crimes furthered by the sham marriage, including forced prostitution and pimping. A defendant convicted of marrying a PRC woman under false pretenses can

be charged with violating the "Act Governing Relations Between Peoples of the Taiwan Area and the Mainland Area" (the Taiwan-PRC Relations Act), and can face a sentence of one to seven years. Typical sentences for first-time offenders range between one to one-and-a-half years. Many traffickers solicit mentally or physically disabled or destitute men to serve as husbands. Courts often punish such men with sentences of less than one year. Penalties for traffickers are higher, but traffickers themselves rarely enter into fraudulent marriages. In 2004, one trafficker was sentenced to seven years for brokering several false marriages to traffick PRC women into Taiwan in violation of Taiwan-PRC Relations Act. The conviction was overturned on appeal in 2007.

According to MOI statistics, in 2006 one quarter of new marriages in Taiwan involved a foreign-born mother. There are approximately 133,000 spouses from Southeast Asia (100,000 of them from Vietnam) and another 233,000 spouses from the PRC living in Taiwan.

Non-PRC citizen foreign spouses can apply for residency immediately, which entitles them to work legally in Taiwan. They cannot apply for full citizenship until they have resided in Taiwan for three consecutive years, and usually do not obtain citizenship until their fourth year of residence in Taiwan. PRC spouses are eligible to apply for dependent resident status after two years, but cannot apply for permanent residence or permission to work until after six years in Taiwan. A foreign spouse without citizenship risks deportation if he or she divorces or does not live with his or her Taiwanese spouse. Traffickers use the threat of

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deportation to coerce and control women brought into Taiwan under the guise of marriage.

Taiwan authorities have taken significant steps to discourage traffickers from abusing the spouse-visa program. All foreign spouses must first apply to a Taiwan Bureau of Consular Affairs (BOCA) Overseas Office to obtain a visitor's visa to enter Taiwan. In September 2003, Taiwan reinstated the face-to-face interview requirement for all PRC spouses seeking a visitor's visa to enter Taiwan. Beginning in January 2005, face-to-face interviews were required of all prospective spouses from Burma, Cambodia, Indonesia, the Philippines, Thailand, and Vietnam. Interviews must be conducted by two BOCA staff members, chosen at random and rotated regularly to prevent collusion with applicants. Once in Taiwan, each foreign spouse must apply for an Alien Residency Card (ARC). At this stage, BOCA officials will interview the foreign spouse again, and his or her putative wife or husband. The NIA maintains 39 interview rooms in Taiwan's five major cities, two international airports, and on Kinmen and Matsu islands, adjacent to the PRC's Fujian province. Applicants found to be in sham marriages are immediately deported.

The face-to-face interview requirement has helped to detect and deter fraudulent "marriages of convenience." From 2004 to 2005, the number of visitor's visas issued to Vietnamese spouses dropped from 11,953 to 7,062. In 2006, the total number of visas issued to Vietnamese spouses dropped again, to 3,864. The refusal rate for Vietnamese applicants has climbed from 10 percent in 2004 to 37 percent now. PRC marriage visa applicants have dropped by a third over the past two years, and refusal rates have climbed from 12 percent to above 30 percent.

The Taiwan authorities have also adopted other measures to cut down on the trafficking of foreign spouses. In 2003, the legislature amended the Taiwan-PRC Relations Act to increase penalties for Taiwanese entering into fraudulent marriages with PRC citizens. In May 2005, the Taiwan government stipulated that Vietnamese women marrying Taiwan men must be at least 20 years old, and the age difference between the

bride and groom must be less than 20 years. The number of arranged marriages between Vietnamese women and Taiwan men dropped by 40 percent over the next several months. Also in 2005, the government began requiring both the foreign and Taiwan spouse to attend a mandatory two-hour session on their respective rights under Taiwan law. In June 2006, the Taiwan government banned the formation of new cross-border matchmaking companies, and announced that existing firms would be subject to stricter regulations and monitoring. In October 2006, a hotline was established to provide consulting services to foreign spouses in Chinese, English, Indonesian, Thai, and Vietnamese. Over the past year, Taiwan authorities have also increased the number and frequency of surprise visits and phone calls to check on the whereabouts of persons involved in suspect cross-border marriages.

The Taiwan government does not have reliable statistics on the number of women trafficked into Taiwan through fraudulent marriage. According to a November 2006 report from the Immigration Bureau of the National Police Agency (now part of the recently-established National Immigration Agency), over the past three years immigration officials discovered 16,819 PRC citizens in fraudulent marriages with Taiwan citizens, amounting to 12.6 percent of the 133,305 Chinese spouses who had entered Taiwan from September 2003 to October 2006.

NGOs assert that the government does too little to educate migrants, including foreign spouses, about rights and protections available to them under Taiwan law. This leaves them distrustful of authority, and vulnerable to misinformation and abuse from spouses, employers, and traffickers. Traffickers are able to operate with relative

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impunity, NGOs say, because law enforcement resources dedicated to combat trafficking are still inadequate.

In August 2005, 1,700 Thai laborers working on the Kaohsiung area rapid transit system rioted over management conditions, withholding of pay, and poor living conditions. The riot revealed the existence of a significant labor trafficking problem in Taiwan, and highlighted the need for changes to Taiwan's foreign labor importation system.

According to MOI, there are approximately 340,000 foreign workers in Taiwan, primarily from the Philippines, Thailand, Vietnam, and Indonesia. Fifty percent of these workers are employed in the manufacturing industry, and 45 percent are employed as nursing caregivers.

Foreign workers in the industrial and manufacturing sectors, including construction workers, fishermen, and caregivers employed by hospitals or other commercial institutions are covered by the Taiwan Labor Standards Law (LSL). The LSL prohibits forced labor, establishes limits on premature contract termination, ensures basic minimum wage and overtime rates, sets limits on the work-day and work-week, and guarantees breaks and minimum time off.

The protections offered by the LSL do not extend to the 150,000 foreign workers employed as private nursing caregivers and domestic helpers. They are covered instead by the Employment Services Act (ESA), which does not guarantee the minimum wage or overtime pay, does not set limits on the work-day or work-week, and does not provide for minimum breaks or vacation time. NGOs report many cases of foreign domestic helpers and nursing caregivers working 16-18 hours per day, and being given only one day per month or less of free time. Some employers forbid their employees from leaving the employer's residence, except on days off. In this forced isolation, foreign domestic helpers and nursing caregivers are extremely vulnerable to abuse, including physical or mental abuse, and sexual assault. The ESA does not afford foreign workers any protection against the employer's arbitrary termination of their contract.

In November 2006, the CLA considered extending LSL coverage to foreign workers employed as private nursing caregivers and domestic helpers. The proposal encountered stiff opposition from the League of Welfare Organizations for the Disabled, who argued that extending LSL coverage to these categories of workers would make care services for disabled family members unaffordable for about one-third of those families who currently employ such workers. The CLA withdrew the proposal, but did not rule out its future reconsideration.

To reduce the likelihood of labor trafficking and the incidence of employer abuse, on October 24, 2006, the CLA promulgated the "Living Conditions and Management Standards for Employment of Class B Foreign Workers," which establishes mandatory living conditions, including meals, free time, and a right to privacy, for all foreign workers. Starting November 1, 2006, all employers must submit to local labor authorities a "Foreign Worker's Life Management Plan" for each foreign worker, within three days of the worker's arrival in Taiwan. Local labor inspectors are required to conduct an inspection of the worker's living environment and working conditions within two months of receiving the employer's "Life Management Plan." By the end of December 2006, employers had submitted 6,287 plans for newly arrived foreign workers.

Taiwan has no law to protect foreign workers from being forcibly repatriated. Under current laws, an employer can repatriate foreign workers at any time. NGOs report that foreign workers who raise concerns or seek legal help are regularly deported without due process. CLA changed its regulations to address this problem. Beginning November 1,

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2006, employers who wish to terminate a foreign worker's contract before its expiration date must request and obtain approval from an appropriate local government labor official.

If the labor official discovers a labor-management dispute, or that the worker is being forcibly repatriated, the employer will not be able to recruit a new worker to fill the vacancy until the dispute is resolved.

The Taiwan government grants commercial and private employers the right to employ a certain number of foreign workers per year. Employers sell these "quotas" to the highest-bidding brokerage firm, which then recruits foreign workers to fill the quota, charging each worker exorbitant job placement and brokerage fees. In order to preserve lucrative relationships with employers, brokers often help to control troublesome employees through threats, physical abuse, and other forms of punishment. Brokers also often help employers to forcibly deport foreign workers -- the employer gets rid of a problematic employee, and the broker can fill the empty quota with a new foreign worker. The higher the turnover rate for foreign workers, the more money brokerage firms can make, since each new crop of workers can be charged new placement and brokerage fees.

High brokerage fees and other charges frequently turn foreign workers into virtual indentured servants. According to a 2006 NGO report, foreign workers must pay combined placement, service fees, and food and boarding charges of between NT \$254,000-\$433,000 (US \$8,200-\$14,000) for a three-year factory or construction job contract. Factory and construction workers are covered by the LSL and are guaranteed a minimum monthly salary of NT \$15,840 (US \$511), plus overtime. Regular overtime must be paid at 1.33 times the regular hourly rate for the first two hours of overtime per day, and for every hour thereafter, special overtime must be paid at 1.66 times the hourly rate. The average factory worker earning the minimum monthly salary plus 10 hours of regular overtime and 10 hours of special overtime per month would need 12.5 months to pay off average fixed debts of NT \$343,500, leaving no money for himself.

Domestic helpers and nursing caregivers are entitled to NT

\$15,840 monthly minimum salary, but typically are not paid overtime wages, since they are not covered by the LSL. The same 2006 NGO report indicated that foreign workers must pay combined placement, service fees, and food and boarding charges of between NT \$104,000-\$293,000 (US \$3,400-\$9,500) to secure a three-year domestic helper or nursing caregiver job.

With no prospect of overtime wages, the average domestic helper or nursing caregiver would need 12.5 months to pay off average fixed debts of NT \$198,500, leaving no money left over for other expenses.

Taiwan regulations allow an employer, with the foreign worker's consent, to deduct up to 30 percent of the foreign worker's monthly salary to be placed in a bank account in the worker's name. The employer holds the bank book and the worker has no access to this account. The money, which typically amounts to around NT \$3,000 per month, is only returned to the worker at the completion of his or her contract. If the company goes bankrupt, the worker loses the money. This practice is called "forced savings" because if the worker does not consent to the arrangement, the worker is sent home.

Because the debts owed to brokers and employers are so great, most workers expect to save little or nothing during the first two years of their contracts. In many cases, the financial pressure prompts workers to run away from their broker and employer in order to seek more profitable employment elsewhere. Workers also flee to escape difficult or dangerous work, or to escape abuse by the broker or employer. According to a 2005 NGO survey of 118 migrant workers who had quit their legal employment to begin working

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illegally, 36 percent had quit because their take-home salary was too low after deductions for brokerage fees, food, board, tax, health and labor insurance, and forced savings. Eighteen percent had quit because the work was too difficult or dangerous.

Foreign workers in Taiwan do not have the right to transfer to a new employer at will. The ESA authorizes foreign workers to transfer to a new employer only under certain conditions: (1) the employer or person to be cared for dies or departs Taiwan; (2) the vessel on which the worker is employed sinks, is under repair, or has been seized; (3) the factory or other work location is shut down, has suspended business, or is unable to pay the worker's salary; (4) the worker can prove he has suffered physical, sexual, or severe verbal abuse from the employer; (5) the worker reports that he has been forced by his legal employer to work for an illegal employer; and (6) after a previous warning from the government, the employer has forced the worker to again perform work outside the scope of his work permit or employment contract, or to work in an unauthorized workplace ("illegal work").

Before January 2002, an employee was entitled to an immediate transfer upon proving that his employer had forced him to do illegal work. In 2002, Article 72 of the ESA was revised to give an employer a chance to correct the illegal work situation within a specified period. Now, a worker is only entitled to a transfer (and his employer will only be punished) after the employer's second illegal work violation.

This puts the foreign worker in a catch-22: a worker reporting a first violation risks destroying his relationship with the employer, who can retaliate by canceling the worker's contract and deporting him. If the worker chooses not to report the illegal work, he risks being caught by the police and deported for working illegally (see further discussion at para. 29 (C), below).

Assuming a foreign worker is entitled to transfer to a new employer for one of the enumerated reasons, domestic helpers and nursing caregivers must typically wait 6-8 weeks before the transfer is approved. Factory and construction workers

usually wait 3-4 weeks. While waiting to transfer to a new employer, foreign workers are not allowed to work. If they cannot find a new employer, they must depart Taiwan.

If a foreign worker leaves his or her legal employer for any reason not authorized by the ESA, the worker automatically enters "illegal status" and can be subject to immediate deportation. According to Taiwan officials, foreign workers in illegal status can earn higher wages from illegal employers willing to hire them (US \$800 per month versus US \$511). By hiring foreign workers in illegal status, illegal employers can circumvent the foreign worker quota system, taxes, and other financial burdens the government imposes on legal employers of foreign workers. Although they may be able to earn more money, foreign workers in illegal status do not have a contract, are not protected by the LSL or ESA, and are not covered by health or labor insurance. Because they fear deportation, foreign workers in illegal status rarely report employer misconduct to law enforcement or other government officials. This makes them extremely vulnerable to employer abuse, including but not limited to physical or mental abuse and sexual assault. Some illegal status foreign workers, desperate for any type of gainful employment, end up trafficked into forced labor or Taiwan's sex industry.

NGOs reported that foreign workers often fell victim to labor trafficking -- having contracted to perform one type of work but forced to perform another type of work upon arrival in Taiwan. Employers use this tactic to circumvent hiring limits on certain classes of workers, or workers from certain countries. Employers and brokers both profit from it: brokers charge workers more to secure high-wage-plus-overtime

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factory jobs than they do for low-wage domestic caretaker jobs. Employers can pay foreign workers bound by domestic helper contracts less than those who signed factory worker contracts. Since they are performing work outside the scope of their work permits and original contracts, foreign workers often believe they are in illegal status. Many of these workers do not report labor trafficking violations to authorities because they do not know their rights and are fearful of deportation. Other workers, in debt to brokers and possibly the employer, do not wish to lose what gainful employment they have. In any event, the ESA grants employers one chance to "cure" certain violations, including forcing an employee to perform unauthorized work or to work at an unauthorized location, without penalty (see above). If the foreign worker reports the violation, he risks retaliation from the employer, who will likely not be punished.

According to the Council of Labor Affairs (CLA), from December 2005 to December 2006, the number of foreign workers in illegal status decreased by 2.6 percent, to 21,051. The number of Filipino workers in illegal status dropped by 6 percent (2,982), and the number of illegal workers from Thailand and Vietnam also dropped, by 30 percent (1,839) and 11 percent (10,711), respectively. The number of Indonesian workers in illegal status rose by 39 percent, to 5,512. Due to high "runaway" rates among Vietnamese workers, a ban on Vietnamese fishermen has been in effect since May 2004, and a ban on Vietnamese domestic helpers and nursing caregivers has been in place since January 2005. For similar reasons, a ban on Indonesian workers had been in effect from August 2002 to December 2004.

In April 2006, CLA announced guidelines for heavier fines for those who employ or arrange employment for illegal foreign workers. Administrative fines for labor violations are imposed and collected by local city and county governments. CLA urged local governments, which assess and collect these fines, to follow the new guidelines to heavily punish those who employ illegal workers. Stiffer penalties were also announced for illegal foreign workers themselves. The CLA emphasized that trafficking victims forced into illegal status by mistreatment or exploitation would not be

repatriated, and their right to work in Taiwan would be preserved. Despite the CLA's April 2006 new penalty guidelines, most city and county governments continued to assess minimum instead of maximum fines. CLA officials told AIT the new penalty guidelines were non-binding recommendations, and that local governments retained discretion over labor violation fines. (Please see para. 29 (C) below for further discussion.)

In January 2007, CLA implemented new measures to simplify the re-hiring of foreign nursing caregivers and domestic helpers.

Under this "direct re-hiring program," employers can now file applications to re-hire the same foreign worker before the expiration of the worker's current contract. The paperwork required of the foreign worker has been simplified, and time required out of Taiwan to renew the work permission has been shortened to one day from three weeks. Brokers are not involved in arranging the contract renewal, saving the foreign worker a second brokerage fee and other charges often demanded by brokers.

In March 2007, CLA revised the rules governing cash rewards for those who report violations of the Employment Standards Law (ESL). Informants can receive NT \$50,000 for reporting illegal employment or brokerage of foreign workers, up from NT \$5,000. The reward for information leading to the arrest of a "runaway" worker has been increased from NT \$2,000 to NT \$5,000. The reward for reporting an illegal foreign worker remains unchanged at NT \$2,000. NGOs strongly condemn rewards for the capture of "runaway" workers. Workers who flee their employers because of exploitation or abuse are not criminals, NGOs argue, and should not have bounties placed on

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their heads.

CLA also announced a new reward structure to encourage the public to report cases of mistreatment of foreign workers. Under the new rules, depending upon the size of the company, informants can receive up to NT \$100,000 for reporting poor management of foreign workers by local companies. In addition, NT \$50,000 will be paid to anyone reporting sexual harassment of foreign workers by their employers.

Government leaders have demonstrated strong political will to combat trafficking in persons. This commitment is best demonstrated by the "Executive Yuan Action Plan for Suppressing Trafficking in Persons" (the "Action Plan"), published by the EY on November 8, 2006. Thirteen government ministries and agencies and NGOs cooperated in drafting the Plan, which directs: (1) strengthening Taiwan's existing net of anti-trafficking laws; (2) implementing an island-wide standard procedure to identify trafficking victims; (3) exempting trafficking victims from punishment for non-violent crimes occasioned by their victimization; (4) allowing trafficking victims to switch jobs or employers; (5) assigning special task forces and special prosecutors to increase the investigation, prosecution, and conviction of traffickers; and (6) enhancing penalties for convicted traffickers. By May 2007, each relevant government agency must submit its detailed proposal to meet Plan goals. A Cabinet-level Minister without Portfolio, appointed by and responsible to the Executive Yuan, oversees and coordinates the multi-agency task force, which met for the first time in March 2007. The Plan requires a comprehensive anti-trafficking strategy to be fully implemented by December 2008.

In an effort to streamline immigration policies and to improve immigration enforcement, the Taiwan government on January 2, 2007 launched the National Immigration Agency (NIA). The NIA replaces the National Police Agency's (NPA) Immigration Bureau and Foreign Affairs Department, and the Aviation and Harbor Police Bureaus. The NIA has also absorbed immigration-related duties from MOI, the Council for Labor Affairs (CLA), and several other government agencies. The

NIA is now responsible for formulating and implementing all policies and procedures relating to foreign workers, foreign spouses, and legal and illegal immigrants. To improve accessibility to immigration services, in January 2007 the NIA opened 25 new immigration service offices in cities and counties across the island. NIA also hired an additional 160 immigration officers to speed handling of immigration matters.

On December 11, 2006, the Legislative Yuan Home and Nations Sub-Committee approved the revised draft of the Immigration Act, which includes a new chapter on "Cross-Border Human Trafficking Prevention and Victim Protection." The Immigration Act bill is currently under consideration by the Legislative Yuan, and is expected to be passed before the end of this legislative session in June 2007 (see 29.A below).

27 C. Limitations on Taiwan's Ability to Address TIP

Until last year, Taiwan's difficult relationship with PRC had been its greatest handicap in fighting trafficking from the Mainland. China and Taiwan signed the Kinmen Accord in September 1990, under which the PRC agreed to accept returning illegal immigrants from Taiwan within 20 days. According to Taiwan authorities, the complicated cross-Strait relationship, the lack of normal communication channels and the PRC's refusal to cooperate contributed to increasingly longer periods of detention for growing numbers of illegal PRC immigrants. In 2004, nearly 5,000 PRC citizens were awaiting repatriation in Taiwan's four detention facilities. By February 2006, that number had been reduced to approximately 1,200 people detained in four separate

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facilities. As of February 2007, only 128 PRC citizens are being held in detention, in the one remaining facility in Ilan.

According to NIA and Taiwan academics, the drastic decrease in the number of PRC detainees awaiting repatriation is the result of enhanced communication with Chinese authorities and improved cross-Strait relations. During several large repatriation operations from November 2006 to February 2007, Taiwan returned an additional 370 illegal immigrants to the PRC, bringing the total number of detainees in Taiwan to its lowest level in 15 years. Taiwan has closed three of its four detention facilities, leaving open only the Lotung facility in Ilan, which can accommodate 2,000 people.

Taiwan faces few budget or personnel shortages that would hinder its ability to combat labor and sex trafficking from Southeast Asian source countries. Taiwan also has sufficient resources to provide adequate protections and services for trafficking victims. A central NGO complaint is that although the central government has mandated that certain protections and services for trafficking victims be available island-wide, the treatment afforded to trafficking victims varies considerably from place to place. NGOs told AIT that central government police and labor authorities often establish beneficial new policies or procedures that are only partially implemented or simply ignored by local labor and law enforcement officials. This problem is especially marked in the more rural areas of southern Taiwan. Central and local government officials acknowledge this situation, and emphasize government plans to counteract it through increased training and education on TIP-related issues.

Foreign labor brokerage companies operate across national borders, and Taiwan's ability to restrain abusive practices in source countries is limited. Brokers in Taiwan are in direct communication with their counterparts in Vietnam, Thailand, the Philippines, and other source countries. Source country governments often do not closely monitor the fees and other conditions imposed on workers by labor brokers in their territory. This gives foreign labor brokers in Taiwan and in the various source countries ample opportunity

to exploit the workers through inflated fees, and to coerce them by threatening family or property left behind in the worker's home country. The Taiwan government is working to improve cross-border cooperation with source country governments, but progress has been slow.

Corruption may be impeding reform of the exploitative labor brokerage system. Following the 2005 Kaohsiung labor riots, Taiwan politicians and media outlets investigated whether legislators and high-level government officials had received kickbacks from the brokerage companies involved in the scandal. According to press reports from November 2005, elected officials at the central and local government levels had lobbied on behalf of 70 different foreign labor brokerage companies to obtain a portion of the foreign labor "quotas" needed by the Kaohsiung Rapid Transit project. There was speculation that legislators, especially members of the legislature's Sanitation, Environment and Social Welfare Committee, were personally involved in and profiting from the importation of foreign labor to Taiwan. Sources have told AIT that, even though in their view it would be desirable to eliminate the foreign labor brokerage system, they believed this could not be done because several legislators would oppose it for personal financial reasons.

Taiwan's existing incentive system for police may need to be changed. Officers receive large incentive payments for arrests involving drugs or firearms, and these kinds of cases weigh heavily in deciding promotions. Trafficking cases take more time to investigate than drug or gun crimes, but trafficking arrests garner less incentive money and do little to boost an officer's chances for promotion. A Foreign

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Affairs Police bureau chief suggested trafficking investigations and arrests would increase if the incentive system were recalibrated.

27 D. Taiwan Monitoring of Anti-Trafficking Efforts

Taiwan now systematically monitors its anti-trafficking efforts on all three fronts -- prevention, protection, and prosecution. The Action Plan requires the multi-agency task force to convene every two months to report to the presiding Minister without Portfolio, who is required to monitor and evaluate progress toward anti-TIP goals. The multi-agency task force convened for the first time on March 7, 2007. Following the meeting, the Executive Yuan delivered to AIT the "Executive Yuan Report on Prevention of Trafficking in Persons." The Report detailed government plans to prevent trafficking through education and early detection, to improve protections and services for trafficking victims, and to intensify prosecution and punishment of traffickers. The Report also established anti-TIP benchmarks and reported progress made toward reaching those goals since the Action Plan was approved on November 8, 2006.

The MOJ issued its own internal "Human Trafficking Prevention Concrete Implementation Plan" on December 27, 2006. Pursuant to this plan, in January 2007 the Taiwan High Court Prosecutor's Office established a unit of six senior-level prosecutors to supervise lower District Court handling of trafficking cases. Each of Taiwan's 21 District Court prosecutor's offices was required to designate a senior-level prosecutor to manage trafficking cases at the local level.

Before 2007, the Ministry of Justice tracked investigations, prosecutions and convictions via the principal Criminal Code section or other law used to charge or convict the defendant.

Taiwan does not have a comprehensive anti-trafficking law, so prosecutors use existing sections of Taiwan's Criminal Code, labor and immigration laws, the Taiwan-PRC Relations Act, and the CYSTPA to punish labor- and sex-trafficking offenses. MOJ statistics did not distinguish between actual trafficking cases and "trafficking-related" offenses like smuggling and prostitution. In January 2007, in cooperation

with District Court prosecutors and local law enforcement, the Taiwan High Court began tracking trafficking cases based on the facts of the cases themselves; specifically, whether a given case involves the control, coercion, and exploitation typical of trafficking cases. These new statistics have been provided to AIT.

The Council for Labor Affairs (CLA) maintains and reports statistics on the number of requests for assistance received by the 24 Foreign Worker Service Stations located around Taiwan, and those received by the Foreign Worker Assistance Center located at Taiwan Taoyuan International Airport. CLA tracks and reports the number of calls received by the various foreign worker telephone hotlines. CLA and the MOI also track the number of foreign workers assisted by government-subsidized NGO shelters. CLA tracks and reports the number of employers and brokers fined for violating foreign worker labor regulations. CLA also tracks and reports the number of foreign workers in "illegal status," according to their country of origin.

The National Immigration Agency (NIA), the Ministry of Foreign Affairs (MOFA), the National Police Administration (NPA), and the Coast Guard monitor and report statistics on the number of illegal foreign immigrants to Taiwan, including those from the PRC, Vietnam, Thailand, and other Southeast Asian countries. MOFA and NIA also maintain and report statistics on foreign spouse visa interviews, refusal and issuance rates, and the number of spouses found to be in fraudulent marriages.

In 2006, the MOI authorized the Central Police University to
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study international human trafficking patterns, and to investigate and analyze statistics on human trafficking in Taiwan. According to the EY, the results of this project will be available to government authorities to guide further efforts to combat trafficking.

The government began monitoring trafficking of children and minors in 1995. The 1995 Child and Youth Sexual Transaction Prevention Act (CYSTPA) created an interagency taskforce composed of the ministries of Interior, Justice, Defense, Economic Affairs, Transportation, Education, the Department of Health, the Mainland Affairs Council, and the Council of Labor Affairs. Together with key NGOs, this task force continues to monitor implementation of the CYSTPA and provides guidance to member agencies through semi-annual written reports.

Section 2 - PREVENTION

28 A. Taiwan Acknowledgment of the Problem

The government recognizes that PRC and Southeast Asian men and women, and sometimes minors, are trafficked to Taiwan for forced labor and sexual exploitation. The government acknowledges that Taiwan is also a transit point for the smuggling of PRC nationals to other countries. Taiwan authorities acknowledge that Taiwan is a source country for a small number of women trafficked to other countries, particularly Japan. The central and local governments are actively working to prevent trafficking, to assist trafficking victims, and to punish traffickers.

The Executive Yuan has acknowledged that, before the promulgation of the Action Plan, the Taiwan government "did not go far enough in identifying and protecting human trafficking victims." The EY has admitted that, in the past, traffickers had too often received only minor punishments. The stated objective of the Action Plan is to rationalize and integrate the government response to the trafficking problem, coordinating efforts between different agencies at both the national and local level.

28 B. Taiwan Agency Structure for Anti-Trafficking

The following government agencies are involved in the fight against trafficking: the Ministry of Foreign Affairs (MOFA), Ministry of Justice (MOJ), Ministry of Education (MOE), Ministry of Transportation and Communication (MOTC), Department of Health, the Mainland Affairs Council (MAC), the Council for Labor Affairs (CLA), the Government Information Office (GIO), the Council of Cultural Affairs, the Council of Indigenous Peoples, the Council of Agriculture, the Financial Supervisory Commission, the Coast Guard Administration, and the Ministry of Interior (MOI), which includes the National Immigration Agency (NIA) and the National Police Administration (NPA). A Cabinet-level Minister without Portfolio, appointed by and responsible to the Executive Yuan, is charged with supervising the interagency implementation of an island-wide Action Plan to combat trafficking.

28 C. Information, Education and Communication

The Taiwan government conducts anti-trafficking information and education campaigns that target potential and actual victims of trafficking, both domestically and abroad.

In January 2006 the government opened a special service counter at the Taiwan Taoyuan International Airport to disseminate labor rights information to arriving workers and to hear grievances and to provide emergency assistance to laborers about to depart Taiwan. NGOs argue that the location of the service counters in the non-secure, pre-immigration area of the airport enables brokers to

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physically prevent workers from reporting problems. CLA officials respond that workers can also use emergency phones located in the airport's secure post-immigration area to report complaints. NGOs counter that the emergency phones are not marked for that purpose, rendering them useless to uninformed workers. NGOs also charge that the airport service counter staff are poorly trained, and that the counters often run out of informational pamphlets. CLA contends the service counter's usefulness to foreign workers is demonstrated by the 270 emergency petitions and 94,000 service requests processed during the 2006 calendar year. The 2006 CLA budget for the Taoyuan Service Center was US \$645,000. There are plans in place to open a second worker service counter at the international airport in Kaohsiung.

CLA supports 24 Foreign Labor Consultant Service Centers located around Taiwan. The Centers, operated by local governments with CLA funding, provide counseling, legal aid, and labor dispute resolution services. The Centers also publish and disseminate worker rights handbooks, conduct legal seminars and language training courses, host social and cultural events, and sponsor radio and television programs and advertisements to inform foreign workers of their rights and remedies under Taiwan law. In 2006, CLA budgeted US \$1.3 million to subsidize the centers. In 2007, CLA increased its annual budget for the service centers to US \$2.1 million, to ensure that city and county governments had sufficient resources to defray attorney fees, court costs, and other fees associated with litigating foreign workers' legal claims.

In 2006, CLA gave US \$923 thousand to city and county governments and private organizations to host 128 social events for foreign workers. The events were designed to bring foreign workers together, where government and NGO representatives could inform them of their rights and obligations under Taiwan law. According to CLA, more than 62,000 foreign workers attended these events.

To increase foreign workers' awareness of their rights under Taiwan law, the CLA published a booklet entitled "Legal Workers are Good Workers," which used pictures to depict

legal and illegal conduct by workers and employers. CLA also disseminated 90,000 employer handbooks and 255,000 foreign worker handbooks, translated into English, Vietnamese, Indonesian, and Thai. CLA also helped city and county governments defray expenses associated with foreign labor affairs reporting, reform of foreign labor regulations, and training conferences for local law enforcement and social services personnel. CLA's 2006 budget for publications and foreign labor-related assistance to local governments was US \$1 million. The 2007 budget was increased by 75 percent, to US \$1.76 million.

The Action Plan requires MAC to continue and expand its "Mainland Spousal Guidance Program," which uses town hall-style meetings, social events, information hotlines, websites and printed handbooks to inform Mainland-born spouses of their rights under Taiwan law. MAC is also required to continue and expand its subsidies to NGOs to continue dialogue with the PRC on anti-trafficking efforts and other related cross-Strait exchanges.

The Taiwan government subsidizes NGO-run domestic trafficking prevention outreach programs targeting minors and Southeast Asian women married to Taiwanese men. The Action Plan obligates MOI to establish by October 2007 a formal mechanism to accept and evaluate NGO requests for government subsidies for programs to combat trafficking.

Taiwan government representative Overseas Offices in Thailand, Indonesia, the Philippines and Vietnam conduct pre-entry counseling seminars for foreign spouses of Taiwan citizens. The seminars are conducted by experienced local

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counselors, and contain information on the rights and obligations of foreign spouses living in Taiwan. In 2006, 6,200 Southeast Asian foreign spouses had participated in these seminars. After the PRC, Vietnamese citizens constitute the majority of foreign spouses married to Taiwan citizens. For this reason, the Overseas Office in Ho Chi Minh city has created a website to help Vietnamese spouses obtain necessary information. By January 2007, the site had received 30,000 hits.

The Action Plan obligates MOI by June 2007 to develop and implement programs and publish materials to increase the general public's awareness of human trafficking, and to increase foreign laborers' understanding of their rights and remedies under Taiwan law.

28 D. Other Programs to Prevent Trafficking

Taiwan authorities at the central and local government level are active in combating many of the social ills which predispose individuals to becoming victims of trafficking.

All city and county governments maintain violence prevention and control centers to address domestic and sexual violence and child abuse, environmental factors which can contribute to homelessness, thereby increasing an individual's vulnerability to sex or labor exploitation. Victims of abuse, including foreign born-spouses and foreign workers, can receive medical treatment, emergency assistance, shelter, legal and family counseling, language education and other forms of training.

CLA regularly conducts publicity campaigns to inform young people, first-time job seekers, and other workers of their labor rights and remedies, and to increase awareness of the labor- and sex-trafficking risks associated with deceptive job offers.

In 2006, the Taiwan central and local governments began a US \$100 per month per child subsidy program to reduce financial stress on lower-income families deemed to be at higher risk for child abuse. The central government paid 70 percent of

the US \$6.4 million program and local governments paid the rest. The program was expected to help as many as 15,000 underprivileged children. The central government allocated an additional US \$1 million to hire an additional 140 social workers to manage child welfare cases. The MOI tripled funding for social welfare NGOs to US \$3 million to assist their efforts to increase public awareness of child abuse and domestic violence, and to identify and assist children and families deemed at high risk. In January 2007, the government also offered a US \$100 per month rental subsidy for low-income families unable to afford decent housing.

Adults and children are provided subsidized health care under the national health insurance plan. In January 2007, the Taiwan government assumed responsibility for paying the insurance premiums for family members of jobless insured workers.

Education for children between six and 15 years of age is free, universal, compulsory and enforced. According to government statistics, 99 percent of eligible children attend primary and junior high school. The Department of Education tracks school dropouts, provides counseling, and encourages these students to return to school. The Action Plan requires the Department of Education to submit a proposal to improve the effectiveness of this program by December 2007. The government recently decided to extend compulsory education from nine to twelve years, starting in 2009.

The government continues to financially support a program sponsored by End Child Prostitution, Pornography and Trafficking (ECPAT) in which counselors visit teenage girls

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in shelters once a week to ensure they do not become trafficking victims. In 2005, local police forces around Taiwan joined forces with ECPAT to combat Internet child pornography. With assistance from local Internet service providers, over the past two years the operation shut down 2,442 websites, and 69 cases were referred to the Central Investigative Bureau for further investigation.

28 E. Taiwan Relationship with NGOs, Civil Society, Relevant Organizations on Trafficking

The Taiwan government has a strong working relationship with a number of NGOs and other civic organizations involved in anti-trafficking efforts, including the Women's Rescue Foundation, ECPAT Taiwan, the Presbyterian Church, the Catholic Society of Jesus, the Good Shepherd Sisters, the Hope Workers' Center, the Stella Maris International Service Center, the Color Page Women's Volunteer Organization, the Chinese Muslim Association, the Chunghua Foundation for Persons with Intellectual Disabilities, the United Way, and the Garden of Hope Foundation.

NGOs were involved in the drafting of Taiwan's anti-TIP Action Plan. The Action Plan requires MOI, MOJ, NIA, and other involved government agencies to include NGO representatives in regular policy-making discussions, and to incorporate NGO recommendations into a "comprehensive and integrated" anti-TIP strategy. Government agencies are also required by the Action Plan to include NGO input in anti-TIP informational materials, educational seminars, and other activities.

NGOs contend that although they have been included in anti-TIP policy discussions, too few of their suggestions have been adopted. This has prompted some NGO leaders to criticize the government for being more interested in improving its image than in actually solving Taiwan's sex- and labor-trafficking problem.

The Taiwan central government subsidizes 11 NGO-operated shelters for trafficking victims; the Kaohsiung and Taipei City governments subsidize two more. The NIA, CLA/BLA,

national and local police agencies, and the national and local prosecutors' offices cooperate with NGOs and civic organizations to identify trafficking victims and to place them in appropriate shelter environments. NGO representatives are permitted to accompany victims to police interviews, labor hearings, and court appearances, and to provide interpretation and other services. Several NGOs have received permission from the NIA to monitor the living conditions of PRC women and girls detained while awaiting repatriation to China, and to conduct social and educational programs for them.

The Taiwan government sponsors NGO participation in international anti-trafficking meetings and exchanges. Taiwan will host an international anti-trafficking seminar in August 2007, and will invite NGOs and academics to participate. Taiwan Overseas Offices cooperate with NGO representatives overseas and provide them as much assistance as possible. MOFA subsidizes domestic NGOs that assist the safe return of trafficking victims to their home countries. Domestic NGOs that conduct exchanges with the PRC to reduce PRC-to-Taiwan trafficking are also eligible to apply for subsidies.

28 F. Taiwan Border Control Screening and Monitoring of Emigration/Immigration Patterns for Evidence of TIP

In an effort to streamline immigration policies and to improve immigration enforcement, the Taiwan government on January 2, 2007 launched the National Immigration Agency (NIA). The NIA replaces the National Police Agency's (NPA) Immigration Bureau and Foreign Affairs Department, and the

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Aviation and Harbor Police Bureaus. The NIA has also absorbed immigration-related duties from MOI, the Council for Labor Affairs (CLA), and several other government agencies. The NIA is now the lead agency for formulating and implementing all policies and procedures relating to foreign workers, foreign spouses, and legal and illegal immigrants.

The NIA, NPA and other government agencies collect and compile statistics on legal and illegal immigration to study human trafficking trends and to formulate future policy. NIA, MOFA, NPA, and the Coast Guard monitor and report statistics on the number of illegal foreign immigrants apprehended in Taiwan, including those from the PRC, Vietnam, Thailand, and other Southeast Asian countries. NIA and NPA also record and report the number of foreign citizens arrested for various kinds of offenses, including prostitution, and the number and nationality of those foreign citizens deported each year. CLA tracks and reports the number of foreign workers in "illegal status," according to their country of origin. MOFA maintains and reports statistics on foreign spouse visa interviews, refusal and issuance rates. NIA and NPA track the number of foreign spouses found to be in fraudulent marriages. Government officials use all of these indicators to try to gauge the scope and nature of human trafficking in Taiwan, but do not have reliable estimates.

In order to discourage the fraudulent use of marriage visas to traffick women into Taiwan, spouse visa applicants from the PRC, Burma, Cambodia, Indonesia, Thailand, the Philippines, and Vietnam must undergo interviews in their home countries before departing for Taiwan. All foreign spouses and their prospective mates must undergo a second interview process upon their arrival in Taiwan. Those who fail the interview process are barred from entering Taiwan and are immediately returned to their countries of origin.

28 G. Existence of Trafficking and Corruption Task Forces

Taiwan has established an official mechanism to exchange information at the national level regarding trafficking in persons. The Action Plan requires MOI, MOJ, MOFA, NIA, NPA,

CLA, and other government agencies to convene every two months to coordinate and evaluate ongoing anti-trafficking efforts. A Cabinet-level Minister without Portfolio has been appointed to oversee the task force. The MOI has also appointed a vice-minister to serve as the single point of contact for TIP-related inquiries.

Taiwan also has a multi-agency task-force aimed at preventing the trafficking of under-age girls. The 1995 Child and Youth Sexual Transaction Prevention Act (CYSTPA) created an interagency taskforce composed of the ministries of Interior, Justice, Defense, Economic Affairs, Transportation, Education, the Department of Health, the Mainland Affairs Council, and the Council of Labor Affairs. Together with key NGOs, this task force monitors implementation of the 1995 statute and provides guidance to member agencies through semi-annual written reports.

In addition to the inter-agency taskforce stipulated by the CYSTPA, the Foundation of Women's Rights Promotion and Development (WRP) also serves as a platform to discuss all women-related issues. The WRP is an NGO funded by the Executive Yuan (EY). It is chaired by the Premier and includes the ministers of Interior, Education, Justice, Personnel Administration, Government Information Office, Health, and Labor as well as academics and representatives of NGOs.

The Taiwan High Prosecutor's Office maintains an Anti-Corruption Center dedicated to investigating and prosecuting corruption cases involving legislators, government ministers and other senior government officials,

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and high-ranking military officials.

28 H. National Plan of Action

Taiwan has a national plan of action to combat trafficking in persons. The Action Plan tasks government agencies to meet various goals by specific deadlines. Goals not specifically mentioned elsewhere in this report include:

Protection

The Ministry of Foreign Affairs (MOFA) must (1) enhance efforts to detect and deter fraudulent visa applicants, especially spouse visa applicants, at its Overseas offices; (2) improve efforts to crack down on cross-border marriage brokerage companies suspected of trafficking, and (3) improve cooperation and communication between Taiwan's Overseas Offices, the National Immigration Agency, local law enforcement, and NGOs to combat trafficking rings. These are ongoing projects.

The Education Department must enhance current efforts to provide guidance counseling and social services for young people no longer attending school to help them find lawful employment and to avoid becoming victims of trafficking. The targeted implementation date for these new programs is December 2007.

MOI was tasked to supervise the revised draft of the Immigration Act, which includes a new chapter on "Cross-Border Human Trafficking Prevention and Victim Protection." The Immigration Act bill is currently under consideration by the Legislative Yuan, and is expected to be passed before the end of this legislative session in June 2007.

MOI has also been tasked to: (1) develop a formal policy for granting government subsidies to NGOs involved in assisting victims of human trafficking; (2) establish a mechanism to evaluate trafficking victims' requests to be returned to their home countries; (3) formulate a policy to postpone the repatriation of trafficking victims who may face bodily harm

in their home countries; and (4) submit proposed revisions to existing immigration laws to allow foreign national trafficking victims legal residence in Taiwan if they agree to assist in the investigation, prosecution, and conviction of alleged traffickers. These tasks must be completed by October 2007.

On an ongoing basis, MOI must supervise and assist local government efforts to increase the number of short-term and emergency shelters for trafficking victims, and to provide medical care, counseling, legal aid, and other necessary assistance.

The Mainland Affairs Council (MAC) and MOI must review and revise the laws governing relations with the PRC, Hong Kong, and Macau, and submit proposed revisions to allow victims of trafficking from those regions to extend their stay in Taiwan or to obtain legal residence in exchange for assisting in the investigation, prosecution, and conviction of alleged traffickers. These proposals must be submitted by October 2007.

The Action Plan tasks the Council for Labor Affairs (CLA) to review existing foreign labor shelter facilities and to submit a proposal to increase the number of available shelters. CLA has also been instructed to work with local governments to update databases of multilingual employees, to create an island-wide network of interpreters to assist foreign workers. These tasks must be completed no later than March 2007.

In order to improve protections for foreign workers against
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excessive service fees and other side agreements, CLA has proposed to commission NGOs and other non-profit organizations to evaluate rules used by other countries to regulate cross-border employment agencies and to control contract fees, and to recommend changes to CLA's existing rules. To protect the rights of foreign workers during investigation and trial, CLA and MOI have proposed establishing "victim advocacy units" to provide legal counsel to workers during the investigative process, starting with initial questioning. CLA must submit plans to accomplish these goals no later than December 2007.

MOFA is working to sign bilateral agreements with labor source country governments to establish mechanisms for the safe return of trafficking victims to their home countries, and to increase cross-border cooperation to combat trafficking. MOJ has sent a draft "Taiwan and Vietnam Judicial Mutual Assistance Agreement" to Vietnam for review. MOJ plans to send officials to Vietnam to complete negotiations and sign the agreement.

Prevention

CLA must enhance training for local government labor inspectors and counseling personnel to improve their ability to identify and protect trafficking victims. This includes requiring all inspectors and counselors to attend special training sessions to identify and assist victims of trafficking, and equipping each inspector and counselor with a handbook and standard operating procedure for identifying trafficking victims. These goals must be achieved by June 2007.

To enhance the quality of medical services available to foreign workers, including those who are victims of trafficking, the Health Ministry must draft a multilingual handbook of common medical issues. The handbook must be posted on the Health Ministry website, so health professionals island-wide can use it to inform foreign worker patients. This must be completed by April 2007.

Prosecution

MOJ has been tasked to train police, immigration officials, and other law enforcement personnel how to protect a trafficking victim during an investigation, and how to conduct trafficking investigations to increase the probability of conviction at trial. MOJ must submit its proposed training plan by April 2007.

Section 3 - INVESTIGATION AND PROSECUTION OF TRAFFICKERS

29 A. Laws Specifically Prohibiting Trafficking in Persons

Taiwan does not have a comprehensive TIP law, but trafficking in persons is specifically prohibited by the 1995 Child and Youth Sexual Transaction Prevention Act (CYSTPA) and Articles 296 and 296-1 of the Criminal Code. According to MOJ, in 2006 three people were indicted for violating Article 23, paragraph 2 of the CYSTPA and 74 people were indicted for violating Criminal Code Article 296.

On December 11, 2006, the Legislative Yuan Home and Nations Sub-Committee approved the revised draft of the Immigration Act, which includes a new chapter on "Cross-Border Human Trafficking Prevention and Victim Protection." The Immigration Act bill is currently under consideration by the Legislative Yuan, and is expected to be passed before the end of the legislative session in June 2007.

The "Cross-Border Human Trafficking Prevention and Victim Protection" chapter requires prosecutors, law enforcement, and other government officials involved in the investigation and prosecution of trafficking offenses to protect

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trafficking victims' privacy and personal security. The government is required to provide medical assistance, psychological counseling, shelter, translation, and legal services to victims of trafficking, and to secure their personal belongings. If the victims are children or minors, a social worker must be appointed to accompany the child or minor through all stages of police questioning, and if necessary, investigation and trial of the alleged traffickers.

The chapter further provides that if trafficking victims agree to cooperate with prosecutors, who deem their cooperation necessary and useful to the prosecution, victims will be afforded all protections available under Taiwan's "Witness Protection Act." Prosecutors are instructed to waive prosecution for any crimes occasioned by the trafficking, and to punish leniently other misconduct by the trafficking victim. If a victim's testimony is required by prosecutors, the victim should be issued a temporary residence permit of six months or less, which should be extended if necessary. The victim is to be returned to his or her home country safely upon conclusion of the trial. The chapter encourages agencies involved in anti-trafficking efforts to cooperate with NGOs and source country governments to promote anti-trafficking efforts.

The Home and Nations Sub-Committee also approved a proposed revision to Article 31 of the Immigration Act, to allow foreign workers to legally remain in Taiwan until pending claims against their employer are fully resolved. This amendment is also being considered by the current legislative session, which ends on June 2007.

In 2004, Taiwan amended the Act Governing Relations Between Peoples of the Taiwan Area and the Mainland Area (the "Act") to increase punishments for cross-Strait smugglers. Article 79 of the Act stipulates that any person convicted of smuggling Mainland Chinese into Taiwan for profit in violation of Article 15 of the Act shall be sentenced to at least three and not more than ten years in jail, and fined up to US \$150,000. Under Articles 79 and 80, boat owners and crewmembers involved in smuggling are subject to a prison

term of up to 3 years and/or a US \$30,000-\$200,000 fine and confiscation of the boat used in the smuggling operation.

29 B. Penalties for Sexual Exploitation-Related Trafficking

Article 23 of the CYSTPA states:

-- One who seduces, permits, facilitates, helps, or by other means causes a person under the age of eighteen to engage in a sexual transaction shall be sentenced to more than one year but fewer than seven years in prison, and fined not more than NT \$3,000,000.

-- One who intends to profit by committing this crime shall be sentenced to more than three years but less than ten years in prison, and fined not more than NT \$5,000,000.

Article 24 of the CYSTPA states:

-- One who uses coercion, threats, drugs, fraud, hypnotism or other means to make a person under the age of eighteen engage in a sexual transaction shall be sentenced to more than seven years in prison, and fined not more than NT \$2 million (US \$57,100).

-- One who intends to profit by committing this crime shall be punished with imprisonment of more than ten years, and fined not more than NT \$7 million (US \$200,000).

-- One who habitually commits this crime shall be punished with life imprisonment or imprisonment of not less than 10 years, and fined not more than NT \$10 million (US \$285,700).

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Article 25 of the CYSTPA states:

-- One who intends to make a profit by involving a person under the age of eighteen in sexual transactions through trafficking, pawning or other means of the same nature shall be punished with imprisonment of more than seven years, and fined not more than NT \$7 million (US 200,000).

Chapter 26 of the Criminal Code, "Offenses Against Personal Liberty" provides an all-encompassing statute against trafficking. Chapter 26, Article 296, "Forcing a Person into Slavery," states that:

-- A person who enslaves another or places another in a position without freedom similar to slavery shall be punished with imprisonment of not less than one and not more than seven years.

In 1999, the Criminal Code was revised to include Article 296-1, "Trafficking in Persons," which states that:

a) A person who buys, sells, or holds another person in custody shall be punished with imprisonment of not less than five years, and fined not more than NT \$500,000 (US \$16,000).

b) A person who commits the aforementioned offense to cause a female or male person to have sexual relations with another person shall be punished with imprisonment of not less than seven years, and fined not more than NT \$500,000 (US \$16,000).

c) A person who forces, intimidates, extorts, controls, uses drugs or other illegal means to commit the offenses described in (a) or (b) shall receive the punishment prescribed by (a) or (b), with prison time and fines increased up to one half.

d) A person who introduces, accommodates, or conceals a victim of the crimes specified in (a)-(c) shall be punished with imprisonment of not less than one year and not more than seven years, and fined not more than NT \$300,000 (US \$9,600).

e) A person who habitually commits any of the crimes specified in (a)-(d) shall be punished with a minimum of ten

years and a maximum of life in prison and fined not more than NT \$700,000 (US \$22,500).

f) A public official who conceals a person who has committed any of the crimes specified by (a)-(e) shall receive the punishment prescribed by (a)-(e), with prison time and fines increased up to one half.

The 1999 revision to the Criminal Code also added Article 231-1, which stipulates:

1) A person who for profit coerces, threatens, intimidates, controls, drugs, hypnotizes or uses other methods to overcome the will of a female or male person in order to have that person engage in sexual relations or obscene conduct with a third person shall be punished with imprisonment of not less than seven years, and fined not more than NT \$300,000 (US \$9,600).

2) A person who introduces, accommodates, or conceals a person who has committed the crime specified by (1) shall be punished with imprisonment of not less than one year and not more than seven years.

3) A person who habitually commits the crimes specified in (1) or (2) shall be punished with imprisonment of not less than ten years, coupled with a fine of not more than NT \$500,000 (US \$16,000).

4) A public official who conceals a person who has committed any of the crimes specified by (1)-(3) shall receive the punishment prescribed by (1)-(3), with prison time and fines

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increased up to one half.

According to MOJ, 36 sex-trafficking cases were prosecuted in 2006, involving 229 defendants. Because Taiwan has no specialized anti-trafficking law, prosecutors resorted to various criminal statutes to prosecute alleged traffickers.

Three individuals were charged with violating Article 15 of the Taiwan-PRC Relations Act (smuggling PRC nationals into Taiwan, illegal or unauthorized work or conduct), and four were accused of violating Article 79 (violating the Act for profit).

Three individuals were prosecuted for violating Article 23 of the CYSTPA (soliciting or facilitating child prostitution).

Under the Criminal Code, seventeen individuals were charged with violating Article 216 (using forged government documents), and twenty-one were charged for violating Article 214 (inducing a public official to perform a false or dishonest act.) Twenty-eight individuals were charged with violating Article 231 (procurement) and eighteen were charged with violating Article 231-1 (forced prostitution).

Seventy-four were charged with violating Article 296 (slavery), one defendant was charged under Article 304 (use of violence or coercion to compel another), one defendant was charged under Article 221 (rape), and one defendant was charged under Article 185-4 (vehicular homicide). Eight of the aforementioned defendants were charged under recidivist statutes, mandating prison time of up to five years.

According to MOJ, from the start of 2007, an additional 41 trafficking cases, involving 274 people, have been investigated. Thirty-nine cases were filed against 253 defendants. Eighteen individuals have been convicted and taken into custody.

Thirty-eight individuals were charged with violating Article 15 of the Act (smuggling PRC citizens into Taiwan or illegal employment), and 131 were accused of violating Article 79 (smuggling and/or trafficking of PRC citizens). Three individuals were also charged with violating Article 82-1 of

the Act (recruiting PRC students without government permission).

Three individuals were prosecuted for violating Article 23 of the CYSTPA (soliciting or facilitating child prostitution), and 35 were charged for violating Article 24 (forcible prostitution of a minor).

Under the Criminal Code, eleven individuals were charged with violating Article 216 (using forged government documents), and eight were charged for violating Article 218 (forging official seals on public documents.) One individual was charged with perjury under Article 168. Seventeen individuals were charged with violating Article 231 (procurement for prostitution).

One individual was charged with violating Article 24 of the Passport Act (counterfeiting or tampering with passport documents causing damage to the public).

29 C. Punishment of Labor-Related Trafficking

In Taiwan, labor trafficking offenses can be punished by administrative fines, jail time, or both. Administrative punishments for labor trafficking are governed by Articles 44, 45, 57, 63 and 64 of the Employment Service Act, and by Articles 5 and 75 of the Labor Standards Law.

Employment Service Act

Article 44: No one may let a foreign worker stay and work illegally.

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Article 45: No one may refer a foreign worker to work for an unauthorized employer.

Article 57: An employer of a foreign worker shall not:

(1) Employ a foreign worker without obtaining an Employment Permit, or employ a foreign worker after the employer's Employment Permit has expired, or employ a foreign worker that has been authorized to work for another employer;

(2) Cause an authorized foreign worker to work for an unauthorized employer;

(3) Cause a foreign worker to engage in work not within the scope of the employer's Employment Permit;

(4) Cause a foreign worker employed as a fisherman, household assistant to change his or her workplace without obtaining prior government approval;

(5) Fail to arrange for the employed foreign worker to undergo health examinations, or fail to timely submit health examination reports to the Competent Health Authority;

(6) Dismiss or lay off a national worker as a result of having employed a foreign worker;

(7) Coerce, threaten, or by the use of any illegal means force a foreign worker to engage in work contrary to the worker's free will;

(8) Illegally withhold the passport or residence certificate of a foreign worker, or embezzle belongings of a foreign worker.

(9) Violate any other provisions of the Employment Standards Act or regulations promulgated pursuant to the Employment Standards Act.

Article 63: Anyone that violates Article 44 or Subparagraph (1) or (2) of Article 57 shall be fined at least NT \$150,000

and at most NT \$750,000; anyone who repeats a violation of the same provisions within five years shall be imprisoned for a term not to exceed three years, or be detained for hard labor, and/or fined an amount not to exceed NT \$1,200,000.

Article 64: Anyone who violates the provisions of Article 45 shall be fined an amount of at least NT \$100,000 and at most NT \$500,000; anyone who repeats a violation within five years shall be imprisoned for a term not to exceed one year, or be detained for hard labor, and/or fined an amount not to exceed NT \$600,000.

Anyone who violates the provisions of Article 45 in order to profit therefrom shall be imprisoned for a term not to exceed three years, or be detained for hard labor, and/or fined an amount not to exceed NT \$1,200,000.

Anyone who violates as a usual practice the provisions of Article 45 shall be imprisoned for a term not to exceed five years, and in addition, may also be fined an amount not to exceed NT \$1,500,000.

Article 72, subparagraph (3) operates to give an employer a limited time to correct illegal work situations prohibited by Article 57, subparagraphs (3) and (4). Article 72 reads in relevant part:

Where any of the following circumstances has arisen or existed, the Employer's Recruitment Permit and Employment Permit shall be annulled in whole or in part:

(1) Any of the circumstances as referred to in Article 54,

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paragraph (1) has arisen or existed;

(2) Any of the circumstances as referred to in Article 57, subparagraphs (1), (2), (6)-(9) have arisen or existed;

(3) The employer has failed to rectify within the specified period any of the circumstances referred to in Article 57, subparagraphs (3) and (4).

Labor Standards Law

Article 5: No employer may, by force, coercion, detention, or other illegal practice, compel a worker to do work.

Article 75: An employer who violates the provisions of Article 5 shall be imprisoned for a term not exceeding five years, detained for hard labor, and/or fined NT \$50,000.

In April 2006, CLA announced guidelines for heavier fines for those who employ or arrange employment for illegal foreign workers. Administrative fines for labor violations are imposed and collected by local city and county governments. CLA urged local governments to heavily punish those who employ illegal workers. Under the new guidelines, an individual who knowingly hires an illegal foreign worker for over 30 days or employs two or more illegal foreign workers for more than 15 days should pay the maximum fine of US \$25,000 (NT \$750,000). If an employer commits two offenses within a five year period, he should face up to three years in jail and the maximum fine of up to US \$40,000 (NT \$1.2 million). One who knowingly arranges work for an illegal foreign worker, or unknowingly arranges work for two or more illegal foreign workers, should be fined the maximum US \$16,000 (NT \$500,000).

Stiffer penalties were also announced for illegal foreign workers themselves. Any foreign worker who has stayed in Taiwan illegally for more than six months now faces a maximum fine of US \$5,000, in addition to repatriation and permanent exclusion from Taiwan. The CLA emphasized that trafficking victims forced into illegal status by mistreatment or exploitation would not be repatriated, and their right to

work in Taiwan would be preserved.

Despite the CLA's April 2006 new penalty guidelines, most city and county governments continued to assess minimum instead of maximum fines. According to CLA, an employers found to have illegally changed the place or nature of a foreign worker's employment were typically fined US \$1,000, not the \$5,000 maximum. Employers found to have hired illegal foreign workers or to have transferred a legal foreign worker to an unauthorized employer were fined \$5,000, one-fifth of the \$25,000 maximum. CLA officials told AIT the new penalty guidelines were non-binding recommendations, and that local governments retained discretion over assessing and collecting labor violation fines.

According to MOJ, in 2006 law enforcement officials referred to MOJ for possible prosecution 41 cases of labor brokers illegally detaining workers or improperly demanding extra-contractual payments, 308 cases of employers illegally harboring foreign workers, 1584 cases of employers hiring foreign workers without proper permit, 110 cases of employers allowing their approved foreign workers to work for an unauthorized third party, and 618 cases of employers assigning foreign workers to perform unauthorized work or to relocate to an unauthorized work site. The majority of these cases were punished administratively pursuant to Articles 57 and 63 of the ESA, which specifies that illegal employment and detention of foreign workers can be punished by fines of NT \$150,000-750,000 (US \$5,000-25,000), and their licenses to recruit and employ foreign laborers can be partially or fully revoked.

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Of the aforementioned 2006 ESA violations, district prosecutors from January 2006 through February 2007 filed 62 criminal cases against 122 defendants for ESA violations. Twenty-one individuals were convicted of violating Article 63 (illegal employment of a foreign worker). Eight of those defendants were sentenced to less than six months in prison, eight were imprisoned for hard labor, and five were fined between NT \$150,000-750,000. Another fourteen individuals were convicted of violating Article 64 (illegal transfer of a foreign worker to a third party). All fourteen defendants were sentenced to less than six months in prison, two were assigned to hard labor, and five were fined between NT \$100,000-500,000.

29 D. Penalties for Rape or Forcible Sexual Assault

Taiwan's Criminal Code prescribes the following penalties for those found guilty of the offenses of rape, forcible sex, and obscene conduct:

Article 221 (normal punishment): Any person who has forced, intimidated, or threatened any man or woman into having carnal relations, or has done so by inducing hypnosis or other means against his or her freewill, shall be punished with a prison term of not less than three years and not more than 10 years. An attempt to commit the above offense is punishable.

Article 222 (enhanced punishment): A person who has committed the above offense under one of the following circumstances shall be punished with life prison or a prison term of more than seven years:

Committing the offense together with one or more persons; Committing the offense against anyone under the age of 14; Committing the offense by administering drugs; Committing the offense and torturing the victim; Committing the offense while employed on a means of public transportation; Committing the offense after breaking into an inhabited building or vessel; Committing the offense with the help of weapon(s).

Article 224 (normal punishment): A person who has forced, intimidated, or threatened any man or woman into committing an indecent act, or has done so by inducing hypnosis or other means against his or her freewill, shall be punished with a prison term of not less than six months and not more than five years.

Article 224 (Section 1) (offenses subject to enhanced punishment): Any person who has done so under one of the circumstances prescribed in Article 222 shall be punished with a prison term of not less than three years and no more than 10 years.

Article 225 (committing the offense by taking advantage of the victim's mental or physical disabilities or incapacity): Any person who has committed the offense of rape against any man or woman by taking advantage of his or her mental or physical disabilities or incapacity shall be punished with a prison term of more than three years and less than 10 years. Any person who has committed an indecent act against any man or woman by taking advantage of his or her mental disabilities or incapacity shall be punished with a prison term of more than six months but less than five years. Any attempt to commit the above offense is punishable.

Article 226 (enhanced punishment): Any person who has committed rape or has committed an indecent act, which has resulted in the death or his or her victim, shall be punished with life in prison or a prison term of more than 10 years. A person who injures his or her victim while committing the offense shall be punished with a prison term of more than 10 years. The defendant shall be sentenced to a prison term of

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more than 10 years if a victim commits suicide or injures himself due to her sense of shame.

Article 226 (Section 1) (multiple offenses): Any person who has committed one of the offenses specified in Article 221-225 and has intentionally killed his or her victim shall be punished with death or life in prison. Any person who has committed rape or has committed an indecent-act, and has purposely injured his or her victim shall be punished with life in prison or a prison term of more than 10 years.

Article 227: Any person who has carnal relations with any male or female person under the age of 14 shall be punished with a prison term of not less than three years and not more than 10 years. Any person who commits an indecent act against a male or female person under the age of 14 shall be punished with a prison term of not less than six months and not more than five years. Any person who has carnal relations with any male or female person aged 14-16 shall be punished with a prison term of less than seven years. Any person who commits an indecent act against a male or female person aged 14-16 shall be punished with a prison term of not more than three years. Any attempt to commit any of the above offenses is punishable.

Article 227 (Section 1) (lighter punishment for the offender under the age of 18): An offender who is under the age of 18 may have his punishment reduced or commuted.

Article 228: Any person who has committed rape against anyone under his jurisdiction at an institution or facility shall be punished with a prison term of not less than six months and not more than five years. Any person who has committed an indecent act against anyone under his jurisdiction shall be punished with a prison term of not more than three years.

Article 229 (committing the offense by cheating): Any person who by fraudulent means induces a person to mistake him or her for a spouse and then has carnal relations with him or her shall be punished with a prison term of not less than three years and not more than 10 years. An attempt to commit the above offense is punishable.

Article 229 (Section 1) (indictment upon request): Any person who has committed rape against his or her spouse, or any person who has committed the offense before reaching the age of 18, shall be indicted by the prosecutor upon receiving a request from the victim. The penalties for trafficking are at least as heavy if not heavier than the penalties for rape and forcible sexual assault.

From January 2006 to February 2007, 5 employers (or members of their family) were prosecuted for sexually assaulting foreign laborers. Prosecutors sought sentences from 7-12 years for each defendant.

29 E. Legalization/Decriminalization of Prostitution

Taiwan criminalized prostitution in 1997. It remained legal in Taipei City on a small scale until 2001.

According to Article 80 of the Social Order Maintenance Law (passed in 1991), anyone found to have traded sex for a reward, financial or otherwise, shall be punished with three days in jail, or a fine of no more than NT \$30,000 (US \$910).

Brothel owners, pimps, and enforcers are also subject to the punishments prescribed in Article 231 and 232 of the Criminal Code. These laws are enforced.

Article 231: A person who induces, retains, or introduces a female or male person to have sexual relations with a third person, or any person who retains her or him for that purpose, shall be imprisoned for no more than five years, and fined not more than NT \$100,000 (US \$3,200).

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Article 232: A person who commits an offense specified in paragraph (1) of Article 231, or paragraphs (1) or (2) of Article 231-1 against a person subject to his supervision, assistance, or care as specified in Article 228, or a husband who commits such an offense against his wife, shall receive the punishment prescribed by those Articles, with prison time and fines increased up to one half.

According to August 2006 press reports, former legal prostitutes and others in Taipei called for prostitution to be de-criminalized. No formal action has been taken by the central or local governments.

29 F. Prosecutions

According to MOJ, in 2006, law enforcement officials reported to MOJ 41 cases of labor brokers illegally detaining workers or improperly demanding extra-contractual payments, 309 cases of employers harboring foreigners, 1584 cases of employers hiring foreign workers without proper permit, 110 cases of employers allowing their approved foreign workers to work for an unauthorized third party, and 618 cases of employers assigning foreign workers to perform unauthorized work or to relocate to an unauthorized work site. The majority of these cases were punished administratively pursuant to Articles 57 and 63 of the ESA, which specifies that illegal employment and detention of foreign workers can be punished by fines of NT \$150,000-750,000 (US \$5,000-25,000), and their licenses to recruit and employ foreign laborers can be partially or fully revoked.

From January 2006 through February 2007, district prosecutors filed 62 criminal cases against 122 defendants for violations of the ESA. Twenty-one individuals were convicted of violating Article 63 (illegal employment of a foreign worker). Eight defendants were sentenced to less than six months in prison, eight were imprisoned for hard labor, and five were fined between NT \$150,000-750,000. Another fourteen individuals were convicted of violating Article 64 (illegal transfer of a foreign worker to a third party). All fourteen defendants were sentenced to less than six months in

prison, two were assigned to hard labor, and five were fined between NT \$100,000-500,000.

According to the EY Report on the Prevention of Trafficking, five human trafficking rings were investigated in 2006, including four sex-trafficking operations and one labor trafficking scheme. Thirty-three illegal brokers were caught during these operations.

According to MOJ, 36 sex-trafficking cases and two labor-trafficking cases were prosecuted in 2006, involving 229 defendants altogether. Because Taiwan has no specialized anti-trafficking law, prosecutors resorted to various criminal statutes to prosecute alleged traffickers.

Three individuals were charged with violating Article 15 of the Taiwan-PRC Relations Act (smuggling PRC nationals into Taiwan, illegal or unauthorized work or conduct), and four were accused of violating Article 79 (violating the Act for profit).

Three individuals were prosecuted for violating Article 23 of the CYSTPA (soliciting or facilitating child prostitution).

Under the Criminal Code, seventeen individuals were charged with violating Article 216 (using forged government documents), and twenty-one were charged for violating Article 214 (inducing a public official to perform a false or dishonest act.) Twenty-eight individuals were charged with violating Article 231 (procurement) and eighteen were charged with violating Article 231-1 (forced prostitution). Seventy-four were charged with violating Article 296

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(slavery), one defendant was charged under Article 304 (use of violence or coercion to compel another), one defendant was charged under Article 221 (rape), and one defendant was charged under Article 185-4 (vehicular bodily harm/manslaughter). Eight of the aforementioned defendants were charged under recidivist statutes, mandating prison time of up to five years.

The EY Report on the Prevention of Trafficking also stated that from January through the end of February 2007, law enforcement officials had investigated 23 additional human trafficking operations, including four labor exploitation and 19 sexual exploitation rings. According to the EY, 160 traffickers have been apprehended.

The Taiwan legislature is currently considering a proposal to amend the Passport Statute to punish those who confiscate the passports of Taiwan nationals with up to five years of jail time and a fine not to exceed NT \$500,000.

29 G. Information on Traffickers and Beneficiaries of Trafficking

Trafficking of PRC nationals into Taiwan is largely controlled by smugglers (snakeheads) affiliated with organized crime syndicates of varying sizes and sophistication. There are also instances of freelance Taiwanese traffickers who collude with marriage brokers to arrange fraudulent marriages with women from the PRC and other Southeast Asian countries. These women often become victims of trafficking upon arrival in Taiwan. Contract labor brokers are also responsible for much of the labor trafficking in Taiwan. There are no clear numbers to indicate what percentage of victims are trafficked into Taiwan by what means.

There were few official reports of government involvement in trafficking, although NGOs have accused local police officials of cooperating with marriage and labor brokers to block trafficking investigations. There is also no indication of where profits from trafficking are being channeled.

29 H. Taiwan Investigation of Trafficking Cases

The Taiwan government actively investigates cases of trafficking. The National Immigration Agency (NIA), National Police Administration (NPA), the Criminal Investigation Bureau, Coast Guard Agency, prosecutors, and local law enforcement cooperatively plan and implement investigations and sting operations to interdict labor and sex trafficking cases. To the extent permitted by domestic law, law enforcement officials use a variety of techniques and resources to gather information and evidence against traffickers, including but not limited to electronic surveillance, undercover operations, paid informants, and the use of mitigated punishment and immunity for suspects who assist with investigations and prosecutions.

From January to late March 2007, Taiwan authorities disrupted four trafficking operations, including one labor trafficking operation and three sex-trafficking rings. Altogether, police arrested 83 suspects in Ilan, Kaohsiung, Keelung, and Taipei. More than 40 trafficking victims were rescued from sex- or labor-trafficking exploitation.

29 I. Specialized Training for Taiwan Government Officials

CLA and BLA train local government labor inspectors and counseling personnel to identify and protect trafficking victims. All inspectors and counselors attend special training sessions to identify and assist victims of trafficking, and are provided with guidelines and standard operating procedures for identifying trafficking victims.

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MOJ prosecutors periodically train police, immigration officials, and other law enforcement personnel how to identify and protect trafficking victims during investigations and how to conduct trafficking investigations to increase the probability of conviction at trial.

MOFA conducts regular training of its consular officers to assist them in detecting and preventing the fraudulent use of marriage visas to traffick women into Taiwan.

NIA and NPA regularly conduct training of immigration and police officers to improve their ability to detect and assist trafficking victims.

29 J. International Cooperation in TIP Enforcement

The United States and Taiwan signed an "Agreement on Mutual Legal Assistance in Criminal Matters" on March 26, 2002. With U.S. assistance, Taiwan prosecutors indicted an individual for smuggling PRC nationals into the United States.

29 K. Taiwan Extradition of Traffickers

Taiwan has an informal repatriation agreement with the People's Republic of China. Under the Kinmen Accord of 1990, Taiwan and Mainland China repatriate convicted and suspected criminals, as well as illegal immigrants, to each other's jurisdiction.

Taiwan has extradition agreements with Costa Rica, the Dominican Republic, Dominique, Malawi, Paraguay, South Africa, and Swaziland. Taiwan and the United States have agreed to a legal assistance framework.

If the extradition candidate is a Taiwan citizen, Taiwan law requires the government to refuse the request, and refer the candidate to Taiwan's legal system for prosecution.

According to the MOI and NIA, the lack of formal diplomatic relations with other countries from which persons are trafficked hinders Taiwan's ability to extradite persons who

are charged with trafficking.

29 L. Evidence of Taiwan Government Tolerance or Involvement in TIP

There is no evidence of widespread government involvement in or tolerance of trafficking in persons. NGOs report that the level of government competency and awareness of TIP at the local level is uneven. NGOs also claim that some local officials are corrupt and work with brokers to turn a blind eye to trafficking.

Incidents of Taiwan authorities supporting trafficking directly or indirectly are rare, but incidents do occur. In October 2006, authorities charged a senior immigration official with cooperating with a brothel owner to smuggle more than 80 Chinese prostitutes into Taiwan. In February 2007, police arrested a Kaohsiung city councilmember for coercing Vietnamese women into prostitution.

There were press reports in 2005 alleging that legislators and high-level government officials had received kickbacks from the labor brokerage companies involved in the Kaohsiung Rapid Transit Company foreign labor scandal. There was speculation that legislators were personally involved in and profiting from the importation of foreign labor to Taiwan. Sources have told AIT that they believe legislators would oppose elimination of the foreign labor brokerage system for personal financial reasons.

29 M. Steps to End Official Participation in TIP

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Aside from the two cases mentioned in paragraph 29 L, there have been no reported cases of government officials directly involved in trafficking. The law provides enhanced penalties for government officials convicted of trafficking offenses.

29 N. Taiwan as a Child Sex Tourism Destination

Taiwan does not have an identified child sex tourism problem. The CYSTPA imposes criminal penalties on Taiwan citizens arrested abroad for having or attempting to have sexual relations with minors.

29 O. Taiwan Ratification of International Instruments

As a non-UN member, Taiwan is unable to become a party to the 1989 UN Convention on the Rights of the Child. However, the Ministry of Foreign Affairs announced in 1995 that it would respect the "spirit and principles" of the Convention. In 1999, a Child Welfare Bureau was established within the Ministry of Interior to bolster Taiwan's ability to implement the Convention on the Rights of the Child and to coordinate with NGOs. In April 2001, President Chen reiterated that Taiwan would abide by the Convention.

For the same reasons, Taiwan is also unable to become a party to the ILO Conventions 29, 105, 182 the UN Convention Against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, but the authorities make every effort to abide by the principles of those Conventions and Protocols. In November 2006, a proposal was submitted to the Legislative Yuan recommending that Taiwan comply with the UN Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, even if Taiwan cannot join. The proposal is still under consideration.

Section 4 - PROTECTION AND ASSISTANCE TO VICTIMS

30 A. Taiwan Assistance to Victims

After being taken into custody by law enforcement officials, all trafficking victims from the PRC are housed at the

remaining PRC-citizen-only detention facility in Ilan while awaiting repatriation. Women and underage trafficking victims are separated from the general detention facility population. Trafficking victims from other countries, such as Vietnam, Indonesia, and the Philippines, are housed at the Sanhsia facility in Taipei County, or are held in local jails. Trafficking victims are kept apart from the general population in local jails. The detention centers and local jails provide victims with temporary shelter, and access to medical and counseling services while they are awaiting repatriation. Trafficking victims can be transferred to local hospitals for further medical treatment if necessary.

NGOs protest the incarceration of trafficking victims, and continue to lobby the government to halt this practice, arguing that trafficking victims are not criminals and should not be deprived of their personal liberty. NIA and NPA counter that incarceration is necessary to protect trafficking victims from possible retaliation by brokers or employers. NGO representatives are permitted to meet with trafficking victims in detention facilities or local jails. NGOs urge trafficking victims detained in this manner to request permission to be sheltered at NGO-operated facilities. These requests are sometimes granted for non-PRC citizens.

Taiwan central and local governments subsidize 13 NGO operated shelters for victims of trafficking. During 2006, 4,447 foreign workers sought shelter in these facilities.

CLA supports 24 Foreign Labor Consultant Service Centers located around Taiwan. The Centers, operated by local

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governments with CLA funding, provide counseling, legal aid, and labor dispute resolution services.

30 B. Taiwan Funding of NGOs Providing Services to Victims

The central government subsidizes the operation of 11 NGO-operated shelters for trafficking victims. The Taiwan central government directly subsidizes these shelters, at US \$15 per person per day. During 2006, 4,447 foreign workers sought shelter in CLA-sponsored facilities, and CLA contributed NT \$8.7 million (US \$300,000) for that purpose. CLA's 2007 annual budget for temporary shelters is NT \$9.6 million (US \$310,000). The Taipei and Kaohsiung City governments fully fund one shelter each, operated by NGOs in their respective districts.

30 C. Identification and Referral of Trafficking Victims

The Ministry of Justice, Prosecutorial Division has completed a draft guideline for the identification of victims of trafficking, as required by the Action Plan. According to NIA, the Action Plan multi-agency task force has already approved the guideline, which must be approved by the Executive Yuan before it can be implemented. NIA expects the guideline to be approved and disseminated to Taiwan law enforcement, labor officials, and NGOs by mid-April 2007. The guideline reads as follows:

Trafficking victims are identified as those:

¶1. Scouted, recruited, transported, sheltered, or introduced to or removed from Taiwan through the use of coercion, threat, intimidation, spying, or through restraint by the use of drugs, hypnotism, fraud, debt or any other form of restraint for the purposes of sexual exploitation, forced labor, or removal of organs;

¶2. Those under the age of 18 found conducting sexual transactions should be treated as trafficking victims regardless of the minor's consent or voluntary participation;

¶3. During the investigation or disruption of suspected human

trafficking rings, police, prosecutors, and other law enforcement officials are required to pay special attention to the following types of individuals to determine if they are victims of trafficking:

- (a) Children under the age of 18;
- (b) Those subjected to involuntary transportation or transfer to a different place or employer;
- (c) Those subjected to abuse during their transportation to Taiwan or transfer to another location within Taiwan. Abuse includes but is not limited to forced confinement or restricted communication with others, physical violence, coercion, threat or intimidation, and sexual assault.
- (d) Those subjected to abuse at their residence or work location. Abuse includes but is not limited to forced confinement or restricted communication with others, physical violence, coercion, threat or intimidation, and sexual assault.
- (e) Those whose travel or identity documents have been confiscated by another;
- (f) Those who have had excessive amounts withheld from their earnings, or who have not received fair pay for their work;
- (g) Those who have been forced to perform work different from that which they were agreed to do, or those who have been forced to transfer to a different employer;

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(h) Any other person who can demonstrate he or she is a victim of trafficking.

¶4. Law enforcement officers are required to conduct questioning of potential trafficking victims with interpreters and social workers, if necessary. If the investigating officer is uncertain of whether an individual is a trafficking victim, he or she is required to contact the prosecutor's office for further guidance.

¶5. Trafficking victims must be clearly identified as such during the booking and detention process, and must be separated from other involved suspects for their protection. Once individuals are identified as trafficking victims, law enforcement officials must contact the appropriate social welfare and labor services entities to arrange for appropriate accommodations. Law enforcement officials must inform trafficking victims of measures available for their assistance and protection, and request their cooperation in identifying and prosecuting the traffickers involved.

¶6. If prosecutors determine during further investigation that an individual is not a victim of trafficking, the prosecutor shall notify law enforcement for placement of the individual in an appropriate detention facility.

End of Guideline

Taiwan local governments do not have a process in place to refer trafficking victims from law enforcement custody to NGOs that provide short- or long-term care. All PRC citizens identified as trafficking victims are transferred to the Ilan Detention Facility. At present, PRC citizen trafficking victims are not eligible for transfer to NGO-operated shelter facilities.

Non-PRC trafficking victims are housed at the Sanhsia facility in Taipei and the Hsinchu detention facility formerly used to house PRC nationals awaiting repatriation. Some trafficking victims are also held by local police departments. NGOs report that, thus far, the Taiwan government has been unwilling to release trafficking victims

from the Sanhsia and Hsinchu facilities to the custody of NGO shelters. However, NGOs also report that certain local police departments have been willing to do so on a number of occasions, strictly on an ad-hoc basis. NGOs allege the government, focused on prosecuting traffickers, does too little to inform detainees of their own legal rights and remedies against their traffickers.

NGOs report that many trafficking victims presently in NGO-operated shelters were referred to the shelters by local law enforcement or Bureau of Labor Affairs (BLA) officials. If a foreign worker reports illegal work, exploitative working conditions, or other abuse to the police, the police will refer the worker to the BLA who will assume responsibility for the case. In the event of a police referral, or if the worker complains directly to BLA, BLA is required to arrange for a labor inspector and police officer to visit the worksite and investigate the alleged illegal work or abuse. BLA will also refer the worker to an appropriate NGO-run shelter. NGOs complain that the investigation can take longer than six months, during which time the foreign worker is forbidden from working.

The local BLA office in Taoyuan has established an informal policy that all victims of trafficking are to be sent directly to NGO shelters, are not to be incarcerated, and are not to be returned to the custody of their brokers or employers. NGOs continue to lobby the CLA and local BLA offices to institute this practice island-wide.

30 D. Rights and Treatment Afforded to Trafficking Victims

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The minority of trafficking victims are housed by NGO-operated shelters. The majority of trafficking victims are typically held in special detention facilities or local jails. Until recently, PRC detainees, some of them trafficking victims, were held in excess of a year before being repatriated to the PRC. With recent improvements in cross-Strait relations, waiting times for PRC citizens awaiting repatriation are much shorter. While in detention, victims are provided food and shelter, medical assistance and psychological counseling, legal assistance, and entertainment activities. NGOs are granted regular access to detainees, and are allowed to conduct social and cultural activities.

Any foreign worker who has stayed in Taiwan illegally for more than six months faces a maximum fine of US \$5,000, in addition to repatriation and permanent exclusion from Taiwan.

The CLA has emphasized that trafficking victims forced into illegal status by mistreatment or exploitation would not be repatriated, and their right to work in Taiwan would be preserved.

In October 2006, CLA amended its regulations to exclude time spent at a shelter from a foreign worker's permitted work stay in Taiwan. Foreign workers are permitted to work in Taiwan for up to three years at a time, for a maximum of six years total. Before the rule change, the period of stay in a shelter was counted toward this three/six year limit. Because working is forbidden while awaiting the outcome of a labor dispute, and because many foreign workers are in debt to their brokers, many foreign workers chose to flee the shelter and seek illegal work.

In January 2007, CLA extended by one month the legal residency period of all foreign workers with pending labor disputes. Many foreign workers were confronted with having their claims dismissed because their Taiwan residency period had or would soon expire.

The "Cross-Border Human Trafficking Prevention and Victim Protection" amendment to the Immigration Act now under consideration in the legislature chapter provides that if trafficking victims agree to cooperate with prosecutors,

prosecutors can request MOJ permission to waive prosecution for any crimes occasioned by the trafficking (i.e., immigration offenses, illegal work, prostitution, false documents), and to punish leniently other misconduct by the trafficking victim.

30 E. Victim Participation in Investigation and Prosecution of Traffickers

The government encourages victims to assist in the investigation and prosecution of trafficking crimes. If a district prosecutor deems the testimony of a trafficking victim to be necessary to a prosecution, the prosecutor can arrange for the victim's legal residency period to be extended. The trafficking victim will most likely be housed in a detention facility or local jail during this process. Victims are not allowed to obtain other employment or to leave the country while serving as witnesses in court cases.

Trafficking victims may ask for compensation by attaching a civil suit to the criminal prosecution against the trafficker, but this happens infrequently. Once they have been arrested, most trafficking victims wish to leave Taiwan as soon as possible, and few wish to stay or take legal action against their traffickers or former employers. Taiwan has increased funding to the Legal Affairs Foundation to assist trafficking victims with the pursuit of claims against traffickers.

Taiwan entitles those who have been injured, or the family of one who has been killed, to request compensation from the government. With the exception of the PRC, this law extends

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to foreign nationals on a reciprocal basis. Taiwan uses its anti-money laundering law to seize traffickers' assets and to make those assets available to satisfy trafficking victims' claims.

Alleging criminal misconduct against an employer carries significant risk for a foreign worker. Under current law, if the prosecutor decides not to indict or prosecute the employer, or if after prosecution fails to convict the employer, the foreign worker is automatically repatriated.

30 F. Protection of Victims and Witnesses

Trafficking victims are placed in protective custody at detention centers or in local jails while serving as witnesses in court cases. The government has a witness protection law that protects women from retaliation and helps encourage their cooperation in investigating trafficking rings. Trafficking victims are permitted to conceal their identity while giving testimony.

All PRC citizens identified as trafficking victims are transferred to the Ilan Detention Facility. At present, PRC citizen trafficking victims are not eligible for transfer to NGO-operated shelter facilities. Non-PRC trafficking victims are housed at the Sanhsia facility in Taipei and the Hsinchu detention facility formerly used to house PRC nationals awaiting repatriation. Some trafficking victims are also held by local police departments. On an ad-hoc basis, local police are sometimes willing to release trafficking victims to the custody of NGO shelters.

30 G. Taiwan Specialized Training for Officials Dealing with Trafficking, Especially Related to Victim Protection

In June 2006, the MOJ sponsored six seminars organized by the Taiwan Women's Rescue Foundation to provide professional training for prosecutors assigned to trafficking cases. From November 2006 to January 2007, the Taiwan government funded three seminars on the resettlement and protection of human trafficking victims. The events were organized by a coalition of NGOs to bring together foreign and local experts, academics, social workers, and government

representatives from the National Police Agency, Council for Labor Affairs, Health Department, and Ministry of Justice. During 2006, NGO personnel were regularly invited to speak to police officers, prosecutors, immigration officials and others to enhance their understanding of the needs of trafficking victims.

The NIA, CLA/BLA, national and local police agencies, and the national and local prosecutors' offices cooperate with NGOs and civic organizations to identify trafficking victims and to place them in appropriate shelter environments. NGO representatives are permitted to accompany victims to police interviews, labor hearings, and court appearances, and to provide interpretation and other services.

MOFA conducts regular training of its consular officers to assist them in detecting and preventing the fraudulent use of marriage visas to traffick women into Taiwan.

NIA and NPA regularly conduct training of immigration and police officers to improve their ability to detect and assist trafficking victims.

30 H. Taiwan Assistance to Repatriated Nationals who are Victims of Trafficking

The Taiwan National Immigration Agency (NIA) reported that 59 female trafficking victims were returned from Japan to Taiwan in 2006. The Taiwan government provided medical and financial assistance, counseling, and other aid to help these women return to normal lives.

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30 I. NGOS Working with Trafficking Victims in Taiwan and Cooperation with the Taiwan Government

The Garden of Hope Foundation, End Child Prostitution, Pornography and Trafficking (ECPAT) Taiwan, the Taipei Women's Rescue Foundation (TWRF), Hope Workers' Center, the Center for Migrants' Concerns, the Vietnamese Migrant Workers and Brides Office (VMWBO), the Taiwan Grassroots Women Workers' Center, the Taiwan International Workers' Association, the Stella Maris International Service Center, the Catholic and Presbyterian Churches, and other religious and secular NGOs are at work in Taiwan to provide shelter, counseling, legal, medical, and financial assistance, public advocacy, social and cultural activities, repatriation assistance, and other services to Taiwan's foreign worker community, including victims of sex and labor trafficking. The Taiwan government has a strong working relationship with NGOs, and is generally open to their input and criticism. NGOs also receive substantial funding from central and local government authorities to perform services for trafficking victims.

12. (SBU) TIME SPENT ON REPORT:

FN-10, 10 hours
FN-09, 20 hours
FO-03, 130 hours
FO-02, 3 hours
FE-MC, 1 hour

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